

## 28.661

### Leaving The Scene Of An Injury Or Fatal Accident

The crime of leaving the scene of an injury or fatal accident requires that the defendant:

1. Was driving a vehicle involved in an accident resulting in injury to or death of any person; and
2. Failed to stop at the scene or as close as possible and immediately return; and
3. Failed to remain at the scene of the accident until the defendant fulfilled the duties required by law of a driver involved in an accident resulting in injury or death.

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**SOURCE:** A.R.S. §§ 28-661 & -663 (statutory language as of October 1, 1997).

**USE NOTE:** Definitions of “physical injury” and “serious physical injury” should be given from A.R.S. § 13-105, if at issue.

This instruction should be given with Instruction 28.663, Driver’s Duty to Give Information and Assistance.

This instruction shall also be followed by the instruction concerning knowledge of injury, if that is at issue- Instruction 28-6611. See *State v. Blevins*, 128 Ariz. 64, 68, 623 P.2d 853, 857 (App. 1981) (holding that failure to instruct the jury on the issue of defendant’s knowledge of the personal injury was fundamental, reversible error when defendant’s personal knowledge was at issue).

**COMMENT:** Term “accident” is broadly construed to include any vehicular incident resulting in injury or death, whether or not such harm was intended. *State v. Rodgers*, 184 Ariz. 378, 380, 909 P.2d 445, 447 (App. 1995) (holding that statute applied when passenger in defendant driver’s vehicle jumped from moving car and was struck and killed by another car).

Leaving the scene is one crime, regardless of the number of persons injured. *State v. Powers*, 200 Ariz. 363, 26 P.3d 1134 (2001).

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